



10/21/03

## PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  
Serial no.  
Filed  
For

Colin DUNLOP  
09/423,776  
with an effective filing date of May 13, 1998  
METHOD AND APPARATUS FOR MONITORING  
HAEMODYNAMIC FUNCTION  
3736  
Robert L. Nasser  
GRIHAC P26AUS

Group Art Unit  
Examiner  
Docket

The Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED

OCT 28 2003

TECHNOLOGY CENTER #3700

REQUEST FOR CONTINUED EXAMINATION (RCE)  
(37 C. F. R. § 1.114)

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. § 1.114, for the above identified application.

**WARNING:** 35 U.S.C. § 132(b) and § 1.114 provide for the continued examination of an application and not examination of a continuing application). Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868. \*

**WARNING:** A continued examination request cannot be made if at least one office action under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 161 has not been mailed. The provisions of 37 CFR 1.114 also do not apply (1) to a provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. § 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. § 363 before June 8, 1995; (4) a patent under reexamination or (5) an application for a design patent. 37 CFR § 1.114(d).

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) AND 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

## Mailing

- ☒ deposited with the United States Postal Service in an envelope addressed to the Assistance Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450  
37 C.F.R. § 1.8(a) 37 C.F.R. § 1.10\*  
☒ with sufficient postage as first class mail. ☐ as "Express Mail Post Office to Addressee"  
Mailing Label No. \_\_\_\_\_  
(mandatory)

## TRANSMISSION

- ☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

DATE: 10/21/03

10/27/2003 AMENDAF1 00000114 09423776

01 FC:2801  
02 FC:2201

385.00 OP  
43.00 OP

Signature

Michael J. Bujold  
(type or print name of practitioner)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Request for Continued Examination (RCE) (37 C.F.R. § 1.114) [9-64] -- page 1 of 5)

Match and Return

09/423,776

NOTE: There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

NOTE: Unlike a continuation application, a continued examination request can utilize the mailing procedure of 37 CFR 1.8. See 37 CFR § 1.8(a)(2)(i)(A).

**TIME REQUEST IS BEING MADE**

2. This request is being submitted (check appropriate item(s) below):

- i. ☐ Prior to abandonment of the application
- ii. ☒ Payment of the issue fee
  - ☒ Prior to payment of issue fee
  - ☐ Issue fee has been paid but a petition under § 1.313 has been granted
- iii. ☐ Prior to a decision on appeal to the Board of Patent Appeals & Interferences
  - ☐ A notice is being separately sent to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

NOTE: If such a notice is not sent to the Board then may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under § 1.114.

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. § 145 or ☐ Commencement of a civil action under 35 U.S.C. § 146
  - ☐ Prior to the filing of such appeal or commencement of civil action
  - ☐ Such appeal or commencement of civil action has been terminated

**ENCLOSURES**

3. Enclosed herewith is/are:

**WARNING:** *If reply to a final or non-final Office action under 35 U.S.C. § 132 is outstanding, the submission must meet the reply requirements of § 1.111. 37 C.F.R. § 1.114(b).*

- ☐ An information disclosure (37 C.F.R. § 1.98) filed on September 22, 2003
  - ☐ Form PTO-1449 (PTO/SB/08A and 08B)
- ☒ A Voluntary Amendment
- ☐ New arguments
- ☐ New evidence in support of patentability
- ☒ Other: Please consider the information disclosure (37 C.F.R. § 1.98) filed on September 22, 2003 including Form PTO-1449 (PTO/SB/08A and 08B)—an Addendum forwarding the missing Russian citation will follow shortly.

**FEE FOR REQUEST (37 C.F.R. § 1.17(e)).**

4. This application is on behalf of:

- ☒ Small entity (and status is still as small entity) ..... \$385.00
- ☐ Other than a small entity ..... \$770.00

Continued Prosecution Request Fee \$385.00

**FEE FOR CLAIMS**

**NOTE:** "The fee for continued examination under § 1.114 ( § 1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

37 CFR 1.53 (d)(3): "The filing fee for a continued prosecution application filed under this paragraph is:

- (i) The basic filing fee as set forth in § 1.16; and  
Any additional § 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under § 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

	(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA RATE	FEE	ADDIT. OR RATE	ADDIT. FEE
TOTAL	*33	MINUS **	33	=		x \$9= \$		x \$18= \$
INDEP.	*4	MINUS ***	3	=	1	x \$43= \$43		x \$86= \$
□ FIRST PRESENTATION OF MULTIPLE DEP. CLAIM						+ \$145= \$		+\$290= \$
						TOTAL ADDIT. FEE	OR	TOTAL ADDIT. FEE \$
						\$43		

\* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid for" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** See 37 C.F.R. § 1.116.

(complete (a) or (b), as applicable)

(a) ☐ No additional fee is required.

OR

(b) ☒ Total additional fee required is \$43.00.

**EXTENSION OF TIME**

(If an extension of time is appropriate complete (a) or (b), as applicable)

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. § 1.136(a) apply.

**NOTE:** 37 C.F.R. § 1.704(b) ".....an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked below:

	Extension for (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/>	one month	\$ 110.00	\$ 55.00
<input type="checkbox"/>	two months	\$ 420.00	\$ 210.00
<input type="checkbox"/>	three months	\$ 950.00	\$ 475.00
<input type="checkbox"/>	four months	\$1,480.00	\$ 740.00
<input type="checkbox"/>	fifth months	\$2,010.00	\$1,005.00

FEE: \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a petition therefor or.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

OR

- (b) ☒ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**TOTAL FEE(S) DUE**

**WARNING:** The fee for continued examination under § 1.114 may not be deferred. 37 C.F.R. § 1.53(f).

7. The total fee(s) due is/are:

Continued Prosecution Fee ( § 1.17(e))	\$385.00
Fee(s) for additional claim s (if any) (§ 1.16(b)-(d))	\$ 43.00
Extension of time fee (if any) (§ 1.17(a)(1)-(4))	\$ _____
<b>Total Fee(s) Due</b>	<b>\$428.00</b>

**PAYMENT OF FEE(S) DUE**

8. Please pay the fee(s) for this continued examination application as follows:

- ☒ Check is attached for the sum of \$428.00
- ☐ Charge Account No. 04-0213 the sum of \$
- ☐ Charge Credit Card the sum of \$             
(Credit Card Payment Form (PTO-2038) attached)

Please charge any required additional fee(s) for § 1.17(e), § 1.16(b)-(d) and/or § 1.17(a)(1)-(4) to

- ☒ Account 04-0213
- ☐ Credit Card (Credit Card Payment Form (PTO-2038) attached).

**INVENTORSHIP**

*NOTE: Any change of inventors must be via the procedure set forth in 37 CFR § 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.*

9. This application as amended names as inventors:

- ☒ the same inventors as previously designated for the claims.
- ☐ fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.
- ☐ a person not named previously as an inventor and a petition under 37 C.F.R. § 1.48 is/has separately: ☐ being filed ☐ been filed

**DEFERRAL OR EXAMINATION**

10. ☐ A request for deferral of examination accompanies this request for continued examination.

Reg. No.: 32,018

  
SIGNATURE OF PRACTITIONER

Date: 10/21/03

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(type or print name of practitioner)

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